

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

60803

99019

FILE: B-184004

DATE: APR 27 1976

MATTER OF: Robert A. Van Winkle - Relocation expenses - House sale

DIGEST: Employee of U.S. Army Corps of Engineers, who was transferred from Paducah, Kentucky, to Louisville, Kentucky, claims reimbursement of real estate expenses incident to sale of residence in Dale, Indiana. While employee did not live in Paducah or regularly commute there, he may be reimbursed since record shows that he was regularly assigned to work, not in Paducah, but at various temporary duty locations, that his residence was closer to temporary duty locations than Paducah was, and that Paducah was designated his official duty station primarily to determine his per diem at actual work locations.

This matter is before us based upon a request dated May 19, 1975, by T. A. Evans, civilian disbursing officer of the U. S. Army Corps of Engineers, Ohio River Division, for an advance decision concerning the propriety of paying the voucher of Robert A. Van Winkle representing relocation expenses incident to his transfer on January 6, 1975, from Paducah, Kentucky, to Louisville, Kentucky.

The record indicates that Mr. Van Winkle transferred from Louisville to Paducah in 1960. While assigned to Paducah, he was in a continual temporary duty status, working at various locations in northwest Kentucky. During this time he stayed in temporary quarters near his worksite during the week and on weekends commuted to his home in Dale, Indiana, which was more than 100 miles from Paducah, his permanent duty station. Effective January 6, 1975, his permanent duty station was transferred from Paducah back to Louisville. Mr. Van Winkle has submitted a claim for real estate expenses incident to the sale of his home in Dale, Indiana, incident to that transfer.

Subsection 5724a(a)(4) of title 5, United States Code, authorizes reimbursement of:

"Expenses of the sale of the residence * * * of the employee at the old station * * *"

B-184004

Provisions in paragraph 2-6.1 of the Federal Travel Regulations (FPMR 101-7), effective May 1, 1973, specify, to the same effect, that:

" * * * the Government shall reimburse an employee for expenses required to be paid by him in connection with the sale of one residence at his old official station * * *." (Emphasis added.)

Paragraph 2-1.4i of the Federal Travel Regulations defines "official station" as "the building or other place where the officer or employee regularly reports for duty." The section also provides that:

"With respect to entitlement under these regulations relating to the residence and the household goods and personal effects of an employee, official station or post of duty also means the residence or other quarters from which the employee regularly commutes to and from work. However, where the official station or post of duty is in a remote area where adequate family housing is not available within reasonably daily commuting distance, residence includes the dwelling where the family of the employee resides or will reside, but only if such residence reasonably relates to the official station as determined by an appropriate administrative official."

The record indicates that, although Mr. Van Winkle's Dale, Indiana residence was located over 100 miles from his old station and he did not commute on a daily basis from that residence, it was nevertheless his actual residence at the time of his transfer to Louisville. Our Office has previously held that where an employee returns to a residence only on weekends, such residence does not constitute "quarters from which the employee regularly commutes to and from work," pursuant to FTR section 2-1.4i. See B-177583, February 9, 1973; B-164905, August 27, 1968; B-161606, August 9, 1967. Further, the record does not indicate that adequate family housing was unavailable in Paducah, Kentucky, the employee's official duty station.

However, the record also shows that, while Mr. Van Winkle was transferred to Paducah in 1960, he is a member of a survey party which has performed work since 1960 at various temporary duty locations and not at Paducah. In this connection the Chief, Operation Division of the Louisville District, states the following:

B-184004

"a. Since 1960, the party has worked in a continuing TDY status at various locations principally along the lower Ohio River. Throughout these years, there has been no established base or office at Paducah for the use of the party.

"b. The inclosed map shows the locations of Paducah, Louisville, Dale and the party's TDY locations and number of days at each during calendar year 1974. It is noted that Dale relates more directly to the TDY locations than Paducah does.

"c. Where members of the Survey Party have traveled to their homes other than at Paducah, per diem was terminated on arrival at home or on estimated time of arrival at Paducah, whichever was earlier. Accordingly, the Government would not have realized any savings in travel or per diem costs if Mr. Van Winkle's home had been at Paducah rather than at Dale."

Thus, it appears that the employee did not regularly report for duty at Paducah and that his actual permanent residence was at Dale, Indiana. In addition the record indicates that the permanent change of headquarters of the survey party from Paducah to Louisville was made to save about \$8,000 per diem because the location of the temporary duty assignments of the party had shifted closer to Louisville than Paducah.

Since Mr. Van Winkle did not, in fact, perform any work at Paducah and performed his work at various temporary duty locations for several years, it appears that the designation of Paducah as his official duty station was primarily for the purpose of determining his per diem. See 23 Comp. Gen. 162 (1943). In view of this we do not object to payment of the real estate expenses claimed if the voucher is otherwise proper. See B-167708, September 26, 1969.

PAUL G. DEMBLING

For the Comptroller General
of the United States

DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

60803

9901

FILE: B-184004

DATE: APR 27 1976

MATTER OF: Robert A. Van Winkle - Relocation expenses - Home sale

DIGEST: Employee of U. S. Army Corps of Engineers, who was transferred from Paducah, Kentucky, to Louisville, Kentucky, claims reimbursement of real estate expenses incident to sale of residence in Dale, Indiana. While employee did not live in Paducah or regularly commute there, he may be reimbursed since record shows that he was regularly assigned to work, not in Paducah, but at various temporary duty locations, that his residence was closer to temporary duty locations than Paducah was, and that Paducah was designated his official duty station primarily to determine his per diem at actual work locations.

This matter is before us based upon a request dated May 19, 1975, by T. A. Evans, civilian disbursing officer of the U. S. Army Corps of Engineers, Ohio River Division, for an advance decision concerning the propriety of paying the voucher of Robert A. Van Winkle representing relocation expenses incident to his transfer on January 6, 1975, from Paducah, Kentucky, to Louisville, Kentucky.

The record indicates that Mr. Van Winkle transferred from Louisville to Paducah in 1960. While assigned to Paducah, he was in a continual temporary duty status, working at various locations in northwest Kentucky. During this time he stayed in temporary quarters near his worksite during the week and on weekends commuted to his home in Dale, Indiana, which was more than 100 miles from Paducah his permanent duty station. Effective January 6, 1975, his permanent duty station was transferred from Paducah back to Louisville. Mr. Van Winkle has submitted a claim for real estate expenses incident to the sale of his home in Dale, Indiana, incident to that transfer.

Subsection 5724a(a)(4) of title 5, United States Code, authorizes reimbursement of:

"Expenses of the sale of the residence * * * of the employee at the old station * * *"

B-184004

Provisions in paragraph 2-6.1 of the Federal Travel Regulations (FPMR 101-7), effective May 1, 1973, specify, to the same effect, that:

" * * * the Government shall reimburse an employee for expenses required to be paid by him in connection with the sale of one residence at his old official station * * *." (Emphasis added.)

Paragraph 2-1.4i of the Federal Travel Regulations defines "official station" as "the building or other place where the officer or employee regularly reports for duty." The section also provides that:

"With respect to entitlement under these regulations relating to the residence and the household goods and personal effects of an employee, official station or post of duty also means the residence or other quarters from which the employee regularly commutes to and from work. However, where the official station or post of duty is in a remote area where adequate family housing is not available within reasonably daily commuting distance, residence includes the dwelling where the family of the employee resides or will reside, but only if such residence reasonably relates to the official station as determined by an appropriate administrative official."

The record indicates that, although Mr. Van Winkle's Dale, Indiana residence was located over 100 miles from his old station and he did not commute on a daily basis from that residence, it was nevertheless his actual residence at the time of his transfer to Louisville. Our Office has previously held that where an employee returns to a residence only on weekends, such residence does not constitute "quarters from which the employee regularly commutes to and from work," pursuant to FTR section 2-1.4i. See B-177583, February 9, 1973; B-164905, August 27, 1968; B-161606, August 9, 1967. Further, the record does not indicate that adequate family housing was unavailable in Paducah, Kentucky, the employee's official duty station.

However, the record also shows that, while Mr. Van Winkle was transferred to Paducah in 1960, he is a member of a survey party which has performed work since 1960 at various temporary duty locations and not at Paducah. In this connection the Chief, Operation Division of the Louisville District, states the following:

B-184004

"a. Since 1960, the party has worked in a continuing TDY status at various locations principally along the lower Ohio River. Throughout these years, there has been no established base or office at Paducah for the use of the party.

"b. The inclosed map shows the locations of Paducah, Louisville, Dale and the party's TDY locations and number of days at each during calendar year 1974. It is noted that Dale relates more directly to the TDY locations than Paducah does.

"c. Where members of the Survey Party have traveled to their homes other than at Paducah, per diem was terminated on arrival at home or on estimated time of arrival at Paducah, whichever was earlier. Accordingly, the Government would not have realized any savings in travel or per diem costs if Mr. Van Winkle's home had been at Paducah rather than at Dale."

Thus, it appears that the employee did not regularly report for duty at Paducah and that his actual permanent residence was at Dale, Indiana. In addition the record indicates that the permanent change of headquarters of the survey party from Paducah to Louisville was made to save about \$9,000 per diem because the location of the temporary duty assignments of the party had shifted closer to Louisville than Paducah.

Since Mr. Van Winkle did not, in fact, perform any work at Paducah and performed his work at various temporary duty locations for several years, it appears that the designation of Paducah as his official duty station was primarily for the purpose of determining his per diem. See 23 Comp. Gen. 162 (1943). In view of this we do not object to payment of the real estate expenses claimed if the voucher is otherwise proper. See B-167708, September 26, 1969.

PAUL G. DEMBLING

For the Comptroller General
of the United States